On page 17, line 16, after "MRYMILGLLALAAVCSAATPHPARIGL", please insert --(SEQ ID NO:2)--.

On page 17, line 19, after "TPHPARIGL", please insert --(SEQ ID NO:1)--.

On page 17, line 25, after "TPHPARIGL", please insert --(SEQ ID NO:1)--.

On page 18, line 2, after "TPHPARIGL", please insert --(SEQ ID NO:1)--.

On page 19, line 23, after "TPHPARIGL", please insert --(SEQ ID NO:1)--.

On page 20, line 2, after "TPHPARIGL", please insert --(SEQ ID NO:1)--.

On page 20, line 18, after "ELDKWAS", please insert --(SEQ ID NO:3)--.

On page 21, line 1, after "TPHPARIGL", please insert --(SEQ ID NO:1)--.

REMARKS

The specification has been amended pursuant to 37 C.F.R. § 1.821(d) to incorporate the sequence identifiers corresponding to the Sequence Listing submitted concurrently herewith. The incorporation of the sequence identifiers introduces no new matter.

The Examiner has required a restriction under 35 U.S.C. § 121 to one of the following inventions:

I. Claims 1-11, drawn to a recombinant virus encoding a tumor-associated antigen, classified in class 424, subclass 93.1 and class 435, subclass 320.1;

II. Claims 12-14, drawn to a method of immunizing a patient bearing a tumor comprising administering an immunogen to a patient, classified in class 424, subclass 93.1;

III. Claims 12 and 15-18, drawn to a method of immunizing a patient comprising administering an immunogen and a booster comprising a different immunogen, classified in class 424, subclass 130.1; and

IV. Claim 19, drawn to a method of immunizing a tumor-free patient comprising administering an immunogen to a patient, classified in class 424, subclass 93.1.

The Examiner contends that the inventions of Groups I-IV are distinct from each other. Applicants respectfully traverse the Restriction Requirement and assert that the subject matter of Groups I-IV are so intertwined that a single search would identify any

relevant art pertaining to a recombinant virus encoding a tumor-associated antigen and methods of immunizing a patient comprising immunogenic formulations comprising said recombinant virus. It is estimated that evaluation of a single search of the elected group should, without undue burden, identify any art relevant to methods of immunizing a patient comprising immunogenic formulations comprising a recombinant virus encoding a tumor-associated antigen. Thus, in accordance with § 803 of the Manual of Patent Examining Procedure (MPEP), the Examiner must examine the subject matter in a single application.

However, in order to be fully responsive, Applicants hereby elect, with traverse, to prosecute the claims of Group I, Claims 1-11 drawn to a recombinant virus encoding a tumor-associated antigen, without prejudice to Applicants' right to pursue the non-elected subject matter in other applications.

Group I, Claims 1-11, are further subject to species election requirements. The first species election relates to the region of the genome of a recombinant influenza virus containing a tumor-associated antigen. Applicants assert that for one to properly search for a recombinant influenza virus encoding a tumor-associated antigen, one would necessarily have to search art relating to all regions of the genome of a recombinant influenza virus containing a tumor-associated antigen. In order to be fully responsive, however, Applicants hereby provisionally elect to prosecute Species B, drawn to the neuraminidase (NA) region of the genome of a recombinant influenza virus containing a tumor-associated antigen.

The second species election relates to the use of live or killed virus. Applicants assert that a single search for a recombinant influenza virus encoding a tumor-associated antigen would necessitate the search of live and killed virus. Thus, a single search of the elected species should, without undue burden, identify any art relevant to both live and killed virus. In order to be fully responsive, however, Applicants hereby provisionally elect to prosecute Species A, drawn to the live virus.

Entry of the foregoing remarks and amendments is respectfully requested. An early allowance is earnestly sought.

It is estimated that no fee is necessary for filing this response. In the event a fee is required, please charge the required fee to Pennie & Edmonds LLP Deposit Account No. 16-1150.

Respectfully submitted,

Date October 22, 1999

by: Jacqueline Benn
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Enclosure